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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/706,992	11/06/2000	Meldon L. Talbot		8526

7590 05/21/2003

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EXAMINER

HAMILTON, LALITA M

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 05/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 2

Application Number: 09/706,992
Filing Date: November 06, 2000
Appellant(s): TALBOT, MELDON L.

MAILED

MAY 21 2003

GROUP 3600

Edward S. Irons
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed February 25, 2003.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims 1-12 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

4,085,746	Castiglia	4-1978
3,777,751	Wise	12-1973

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Castiglia (4,085,746) in view of Wise (3,777,751).

Castiglia discloses a single ankle strap comprising a flexible strap (fig.3-9), an array of plastic hooks disposed only on one side of the first and second ends of the straps (20 and 23), an array of plastic loops for engaging the array of plastic hooks (16 and 21), an array of plastic hooks and loops disposed on opposite sides of the strap (fig.1-2), a constant width fabric (fig.1-2), the strap made of a non-adhesive material (col.2, lines 38-48), the method of bracing the ankle comprising the steps of providing a single ankle strap (fig.3), wrapping the single strap around the ankle and associated foot in a figure eight configuration wherein the end of the strap is positioned on the side which has no plastic hooks disposed (fig.3), passing the length of the strap at least once around the foot passing under the foot in front of the heel to provide one loop of said figure eight configuration then passing across a section of the strap above the foot then around the back of the ankle to provide the other loop of the figure eight configuration (fig.3-4), wherein the wrapping exposes the array of plastic loops and wherein the

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wrapping provides a few end of the strap upon which an array of plastic hooks is disposed (fig.5-6), pressing the plastic loops exposed by said wrapping together with the array of plastic hooks on the free end of the strap (fig.7-9), the method of wrapping the single strap around the ankle in a figure eight configuration wherein the figure eight configuration comprises a beginning end positioned at the inside of the ankle (fig.3), crosses over the medial arch, loops below the front of the heel (fig.3-4), crosses over the medial arch and loops back around the back of the ankle (fig.4), and fastens to itself at the beginning end of the figure eight configuration (fig.5-6); however, Castiglia does not disclose a strap of inelastic material. Wise teaches an ankle strap comprising a flexible, inelastic material (col.2, lines 2-6 and see abstract). It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the flexible, inelastic material taught by Wise in place of the elastic strap disclosed by Castiglia to provide better support and acceptable levels of comfort when the strap is wrapped in a figure eight position about the foot and ankle.

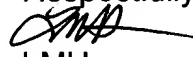
(11) Response to Argument

The Appellant has presented an issue of the final rejection being premature because it was silent with regard to the "Declaration of Inventor pursuant to 37 C.F.R. 1.132". In response, the declaration filed November 9, 2001 was received by the Office on January 8, 2002. The Examiner reviewed the declaration along with the amendment filed on October 15, 2001, but found the declaration did not help to place the application in condition for allowance. Therefore, the Examiner responded to the arguments and made the rejection final.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


LMH

May 19, 2003

Conferees:

Vincent Millin
Hani Kazimi




HANI M. KAZIMI
PRIMARY EXAMINER